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THE ANDHRA PRADESH GAZETTE

PART IV-B EXTRAORDINARY

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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS ETC.

The following Act of the Andhra Pradesh Legislature, received the assent of the Governor on the 11th April, 2012 and the said assent is hereby first published on the 12th April, 2012 in the Andhra Pradesh Gazette for general information:-

ACT No. 3 OF 2012.

AN ACT TO PROVIDE FOR THE TRIAL OF OFFENCES COMMITTED BY PERSONS INDULGING IN CORRUPT PRACTICES DURING IMPLEMENTATION OF GOVERNMENT SCHEMES AND PROGRAMMES INCLUDING THOSE AS BROUGHT OUT BY SOCIAL AUDIT AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Whereas Government is implementing many development shcemes and programmes, either fully or partly funded from the State's Exchequer, meant for the economic betterment of the poor;

And whereas social audit is being conducted by the Government as a means to empower the people and to facilitate a public scrutiny of the implementation of the Government development schemes and programmes in the utilization of funds in the prescribed manner;

And whereas several irregularities in the execution of the above schemes and programmes are being brought to the notice of the Government causing a great concern;

And whereas due to the large number of such irregularities being brought out in the social audits, it has become necessary to curb such activities by suitably punishing the persons responsible for such offences;

And whereas it has become expedient to establish Special Mobile Courts for the trial of offences found to have been committed in the social audit and to facilitate expeditious disposal of these cases;

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixty third Year of the Republic of India as follows:

Short title, extent and commencement.

1. (1) This Act may be called the Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Act, 2012.

(2) It extends to whole of the State of Andhra Pradesh and applies to all persons residing in the State of Andhra Pradesh or concerned with the implementation of various Government schemes and programmes subjected to social audit.

(3) It shall be deemed to have come into force with effect from the 19th August, 2011.

2. In this Act, unless the context otherwise requires,- Definitions.

(a) "Assistant Project Director" means an officer appointed by the Commissioner Rural Development for overseeing the implementation of the schemes and programmes above the Mandal level;

(b) "Corrupt practice" means an act or omission made by any functionary entrusted with a task by the concerned Authority of Government with the intention of defrauding Government or depriving the beneficiaries for whom the various Government schemes and programmes are intended;

(c) "Court" means a Special Mobile Court established under section 3;

(d) "Government" means the State Government of Andhra Pradesh;

(e) "Notification" means a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;

(f) "Observer" means an officer not less than the rank of Tahsildar working in a district deputed by the District Collector to attend the Social Audit Gram Sabha;

(g) "Offence" means any act or omission made punishable under this Act;

(h) "Prescribed" means prescribed by the Government by rules made under this Act;

(i) "Social Audit" means public auditing of the details of implementation of any Government schemes and programmes including by way of ground level verification of works, pay orders or other records with reference to beneficiaries of the scheme and programmes conducted by the primary stakeholders with the active involvement of the Society for Social Audit, Accountability and Transparency (SSAAT);

(j) "Social Auditors" means the beneficiaries or members from the beneficiary families identified by the SSAAT, trained in Social Audit processes and who will carry out the Social Audits and present the findings in the Social Audit Gram Sabha;

(k) "Social Audit Gram Sabha" means a Gram Sabha specially convened on the conclusion of the social audit process in which the Social Audit report is read out;

(l) "Social Audit Mandal Public Hearing" means the social audit public hearing at the Mandal level conducted by the District Collector, or any other officer authorised on his behalf, in the manner prescribed under Social audit rules;

(m) "Social Audit Rules" means the rules made by Government for conduct of social audit for various Government schemes and programmes from time to time;

(n) "Society for Social audit, Accountability and Transparency (SSAAT)" means the Society, which is the apex body at the State level for overseeing the process of social audits, registered by the Government under the Andhra Pradesh Societies Registration Act, 2001 mandated to facilitate conducting of social audit of various Government schemes and programmes;

Act 35 of 2001.

(o) "Special Magistrate" means the Magistrate appointed as such under section 3.

Power to establish Special Mobile Courts.

3. (1) The State Government may, by notification, establish one or more Special Mobile Court(s) in a district or for contiguous districts where social audit has been carried out to try the offences under this Act.

Central Act II of 1974.

(2) A person shall not be qualified for appointment as a Special Magistrate to a Special Mobile Court under this Act unless he is or has been a 1st Class Judicial Magistrate under the Code of Criminal Procedure, 1973.

Cases triable by Special Magistrates.

4. (1) Every offence punishable under this Act shall be tried by the Special Magistrate for the area within which it was committed.

(2) When trying any case, a Special Magistrate may also try any offence, other than an offence specified under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Special Magistrate shall, as far as practicable, hold the trial of an offence/corrupt practice in the village where the offence/corrupt practice is committed and as far as possible on a day-to-day basis.

Enquiry and complaint.

5. (1) The social audit report finalised in the Social audit Mandal Public Hearing shall be considered as enquiry report for the purposes stated under this Act.

(2) Assistant Project Director shall, based on the report of the social audit after due verification or on the direction issued by the Government, file a complaint before the Special Court under this Act.

Cognizance of offences.

6. The Special Court shall take cognizance of the offences and proceed in accordance with the provisions under Chapter XX of the Code of Criminal Procedure, 1973.

Appointment of Special Prosecutor.

7. The Government shall appoint Special Prosecutors from out of a panel of advocates prepared in consultation with the District Judge, for prosecuting the offences under this Act on such terms and conditions as may be prescribed:

Provided that no advocate having experience of less than five years shall be eligible for such appointment as Special Prosecutor.

Trial of offences.

8. In trial of offences punishable under this Act, the procedure specified under the provisions 251 to 259 of the Code of Criminal Procedure, 1973 shall be followed.

Offences and Penalties.

9. (1) Whoever, entrusted with the responsibility of performing any functions by the Government in relation to the implementation of any Government scheme or programme, prepares or participates in preparation of fraudulent records, or tampers a record, to defraud the Government or the beneficiaries for whom the programme is intended shall be punished with imprisonment of either description for a term which shall not be less than three months and may extend to two years and shall also be liable to fine.

(2) Whoever, entrusted with the responsibility for dispensing a benefit to the targeted people, in implementation of any Government scheme or programme, misappropriates the benefit, either partially or fully, either on his own or in collusion with others shall be punished with imprisonment of either description for a term which shall not be less than three months and may extend to two years and shall also be liable to fine.

(3) Whoever, entrusted with the responsibility of performing any functions by the Government in relation to the implementation of any Government scheme or programme, commits a corrupt practice under this Act, shall be punished with imprisonment of either description for a term which shall be not less than three months but which may extend to two years and shall also be liable to fine.

(4) Whoever conspires to commit, or attempts to commit or abets to commit any offence punishable under this Act, shall be punished with imprisonment of either description for a term which shall not be less than three months and may extend to three years and shall also be liable to fine.

Appeal.

10. (1) Any person convicted on a trial held by a Special Magistrate under this Act may appeal to the Court of Sessions under section 374 of the Code of Criminal Procedure, 1973 which shall be disposed off within 3 months from the date of filing such appeal.

(2) If an order of acquittal is passed by the Special Magistrate, an appeal lies to the Sessions Court/High Court.

Matters to be taken into consid-eration for fixing fine.

11. (1) Where a sentence or fine is imposed under Section 9, the Court, while fixing the amount of the fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence, the pecuniary resources of property referred to in that clause for which the accused person is unable to account satisfactorily.

(2) The Special Magistrate, while trying an offence punishable under this Act, shall exercise all the powers and

functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944.

Accused person to be a competent witness.

12. (1) Any person charged with an offence punishable under this Act, shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that-

(a) he shall not be called as a witness except at his own request;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;

Protection to social audit teams and its members for actions taken in good faith.

13. No civil or criminal proceedings shall be taken against the social audit teams or their members for any acts done in good faith under the provisions of this Act:

Provided that any specific complaint on the conduct of any social audit can be verified by Government and suitable orders can be issued for redressal.

Act to be in addition to other laws.

14. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him.

15. The Government may, from time to time, issue such orders, instructions and directions not inconsistent with the provisions of this Act and the rules made thereunder to the officers for the proper administration of the provisions of this Act, which shall be complied with by such officers and other persons. Power to issue directions.

16. (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act. Power to make rules.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislature of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following the Legislature agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. The Andhra Pradesh Promotion of Social Audit and Prevention of Corrupt Practices Ordinance, 2012 is hereby repealed. Repeal of Ordinance 1 of 2012.

A. SHANKAR NARAYANA,
Secretary to Government,
Legislative Affairs & Justice,
Law Department.

A. 158-2

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